

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 2.59.302, 2.59.901, and)	AMENDMENT AND REPEAL
2.59.1001 pertaining to schedule of)	
charges, change of location, and)	
application procedure for approval to)	
merge affiliated banks and the repeal)	
of ARM 2.59.501 through 2.59.504)	NO PUBLIC HEARING
pertaining to satellite terminals)	CONTEMPLATED

TO: All Concerned Persons

1. On December 16, 2009, the Department of Administration proposes to amend and repeal the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Montana Department of Administration no later than 5:00 p.m. on December 3, 2009, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 444-1421; facsimile (406) 841-2930; or e-mail to wjohnston@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.59.302 SCHEDULE OF CHARGES (1) through (8) remain the same.

(9) Licensees shall interpret ~~32-5-201(6)~~ 32-5-301(2), MCA, of the Act "~~once and no more~~ only once" to mean on the same default; i.e., a borrower who defaults in one or more payments may be subject to a penalty of 5% of each payment in default;

(10) remains the same.

AUTH: 32-5-401, MCA

IMP: 31-1-106, ~~32-5-301(6)~~ 32-5-301, MCA

STATEMENT OF REASONABLE NECESSITY: The language of 32-5-301(2), MCA, has changed. Instead of "once and no more" the statute currently reads "only once." In addition, the statute has been renumbered from 32-5-201(6), MCA, to 32-5-301, MCA. This rendered the citation to the statute in the existing rule and in the implementation section incorrect.

2.59.901 CHANGE OF LOCATION (1) remains the same.

AUTH: 32-1-203, MCA
IMP: 32-1-203 2, MCA

STATEMENT OF REASONABLE NECESSITY: This rule implements 32-1-202, MCA, not 32-1-203, MCA.

2.59.1001 APPLICATION PROCEDURE FOR APPROVAL TO MERGE AFFILIATED BANKS (1) through (5) remain the same.

(6) The application shall be in letter form addressed to the Commissioner of Banking and Financial Institutions, Department of Administration, ~~846 Front Street~~, P.O. Box 200546, Helena, MT 59620-0546.

~~(7) This rule will be effective January 1, 1990.~~

AUTH: 32-1-203, MCA
IMP: 32-1-371, MCA

STATEMENT OF REASONABLE NECESSITY: The rule is being amended to reflect the current address of the division. The effective date of the rule is no longer necessary.

4. The department proposes to repeal the following rules:

2.59.501 APPLICATION FOR SATELLITE TERMINAL AUTHORIZATION, found on ARM page 2-5995.

AUTH: 32-6-401, MCA
IMP: 32-6-401, MCA

2.59.502 CRITERIA FOR AUTHORIZATION, found on ARM page 2-5997.

AUTH: 32-6-401, MCA
IMP: 32-6-401, MCA

STATEMENT OF REASONABLE NECESSITY: Section 32-6-401, MCA, has been repealed so the department proposes to repeal the rules implementing it.

2.59.503 MAGNETIC ENCODING AND CARD STANDARDS, found on ARM page 2-5997.

AUTH: 32-6-401, MCA
IMP: 32-6-203, 32-6-308, MCA

STATEMENT OF REASONABLE NECESSITY: Sections 32-6-203, 32-6-308, and 32-6-401, MCA, have been repealed.

2.59.504 FEES FOR THE APPROVAL OF AUTOMATED TELLER MACHINES, found on ARM page 2-5998.

AUTH: 32-6-401, MCA

IMP: 32-6-304, MCA

STATEMENT OF REASONABLE NECESSITY: Sections 32-6-401, and 32-6-304, MCA, have been repealed.

5. Concerned persons may present their data, views, or arguments, concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to kosullivan@mt.gov, and must be received no later than 5:00 p.m., December 10, 2009.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, MT 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to kosullivan@mt.gov, and must be received no later than 5:00 p.m., December 10, 2009.

7. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be six persons based on the number of state chartered banks, which is currently 63 as of the publication of this notice.

8. An electronic copy of this Proposal Notice is available through the department's web site at <http://doa.mt.gov/administrativerules.mcp>x. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall

make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Such written requests may be mailed or delivered to Wayne Johnston, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to wjohnston@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State November 2, 2009.